

The Atchison Topeka And Santa Fe

Between San Francisco and Chicago
Via Albuquerque, and Kansas City.

Snead Comfort and Elegance

Pullman and Dining Service Unsurpassed.

Passing through the Grandest Scenery of the West
F. W. Prince, Agent, 641 Market St. San Francisco Cal

Sacramento Saloon

ANDY TODD, Prop.

The best of liquid refreshments always on tap, including imported
and domestic goods.

Good Cigars are a part of our stock.

You never make a mistake at the old corner.

The Eagle Market

Our Meats are the best, if you are not
satisfied with the place you are trading
call on us. Our motto is "The Best."
A pleased patron means a steady customer

The Eagle Market

ANNUAL STATEMENT

Of The Home Insurance Co. of New
York.

Capital (paid up).....	3,000,000 00
Assets.....	21,239,052 58
Liabilities, exclusive of capi- tal and net surplus.....	9,518,551 54
Income	
Premiums.....	8,785,528 49
Other sources.....	853,478 14
Total income, 1905.....	9,639,006 63
Expenditures	
Losses.....	4,240,249 45
Dividends.....	600,000 00
Other expenditures.....	3,032,720 90
Total expenditures, 1905.....	7,872,970 35
Business, 1905.	
Risks written.....	1,330,688,280 00
Premiums thereon.....	13,244,369 17
Losses incurred.....	6,137,946 32
Nevada Business	
Risks written.....	318,390 00
Premiums received.....	7,150 53
Losses paid.....	1,983 84
Losses incurred.....	1,983 84
A. M. Brutis, Secretary.	

ANNUAL STATEMENT

Of Business of the Nevada Co. for 1905
Receipts.....\$132,652 60
Disbursements.....147,864 57
X. M. Hickey, Cashier

**SPECIAL EXCURSION FROM SAN
FRANCISCO TO CITY OF MEXICO
AND RETURN. DECEMBER 16th,
1905.**

A select party is being organized by
the Southern Pacific to leave San
Francisco for Mexico City, December
16th, 1905. Train will contain fine
vestibule sleepers and dining car, all
the way on going trip. Time limit
will be sixty days, enabling excursion-
ists to make side trips from City of
Mexico to points of interest. On re-
turn trip, stopovers will be allowed at
points on the main lines of Mexican
Central, Santa Fe or Southern Pacific.
An excursion manager will be in
charge and make all arrangements.
Round trip rate from San Francisco
\$80.00.

Pullman berth rate to City of Mex-
ico, \$12.00.
For further information address In-
formation Bureau, 613 Market Street,
San Francisco Cal.

For Bargains in toys go to Ward's
where every article is cut to cost
price.

Dill and sweet pickles, India Relish
Chutney Picallilli and Chows, all
Heinz goods, best on earth, to be had
at Meyers Merc. Co.

Notice of Application for Permission to Appropriate the Public Waters of the State of Nevada.

Notice is hereby given that on the
12th day of Sept., 1905, in accordance
with Section 23, Chapter XLVI, of the
Statutes of 1905, one Philip V. Mighels
and Frank L. Wildes of Carson,
County of Ormsby and State of Ne-
vada, made application to the State
Engineer of Nevada for permission to
appropriate the public waters of the
State of Nevada. Such application to
be made from Ash Canyon creek at
points in N E 1/4 of S W 1/4 of section
10 T 15 N R 19 E by means of a dam
and headgate and five cubic feet per
second is to be conveyed to points
in N E 1/4 of S W 1/4 of section 11,
T 15 N R 19 E, by means of a flume
and pipe and there used to generate
electrical power. The construction
of said works shall begin before June
1, 1906, and shall be completed on or
before June 1, 1907. The water shall
be actually applied to a beneficial use
on or before June 1, 1908.

Signed:
HERALD THURTELL,
State Engineer.

SCHOOL APPORTIONMENT. STATE OF NEVADA.

Department of Education,
Office of Superintendent of Public In-
struction.

Carson City, Nevada, July 11, 1905

To the School Officers of Nevada:
Following is a statement of the sec-
ond semi-annual apportionment of
School Monies for 1905, on the basis
of \$6.990202 per census child:

Counties	children	Amt.
Churchill.....	135	\$ 943 68
Douglas.....	317	2,215 90
Elko.....	1,120	7,829 02
Esmeralda.....	217	1,516 97
Eureka.....	339	2,379 20
Humboldt.....	741	5,159 24
Lander.....	318	2,215 90
Lincoln.....	764	5,349 17
Lyon.....	400	2,796 89
Nye.....	252	1,759 56
Ormsby.....	60	419 53
Storey.....	988	6,854 81
Washoe.....	2,412	16,860 26
White Pine.....	525	3,669 83
Total.....	9,430	\$65,917 61

Joe Platt has received samples of
tailor made suits which are, with-
out doubt the finest ever shown in
this city. A number of suits have
already been made and they are per-
fect fits in every case. Get your
measure taken and do it before the
best samples are gone. He guaran-
tees a fit or no pay.

IN THE SUPREME COURT OF THE STATE OF NEVADA.

Appealed From the Fourth Judicial
District Court, Elko County, Ne-
vada.

The State of Nevada,
Plaintiff and Respondent,
against

Paul Lovelace,
Defendant and Appellant.
Attorney General James G. Sweeney,
Attorney for State.

Wm. Woodburn, Attorney for Appel-
lant.

Defendant appeals from a judgment
rendered against him in the District
Court in and for Elko County for the
crime of burglary; and he assigns two
reasons why, as he claims, judgment
should be reversed.

First, the insufficiency of the in-
dictment on which the judgment was
based; and

Second, the absence of corrobora-
tion of the testimony of an accomplice
who testified against the defendant.

Under the first head the point made
is on the proper interpretation of the
following clause in the indictment:

"The said Paul Lovelace on the 11th
day of May, 1904, in the night time of
said day, or thereabouts, in the County
of Elko, State of Nevada, without au-
thority of the law and before the find-
ing of this indictment, did willfully,
unlawfully and burglariously break
and enter the building of one Alexander
Burrell."

Counsel for defendant in his or
their brief, if an unsigned paper in the
usual form of a brief found among the
papers in the case as they appear filed
in this court, is by us treated as a
brief, say:

"Appellant claims that this indict-
ment is not good at common law, be-
cause the words 'or thereabouts', re-
late to and qualify the words 'night
time'. This question was not raised
in the court below, but is here pre-
sented for the first time.

The question is not whether the in-
dictment would be good 'at common
law'; it is whether it is good under
the statute of Nevada that governs
the subject. The subject is governed
by the sections following concerning
indictments:

Section 4199, Compiled Laws, 1900,
provides that the indictment shall
contain "..... a statement of
the acts constituting the offense, in
ordinary and concise language, and in
such manner as to enable a person of
common understanding to know what
is intended."

Section 4206, Compiled Laws, 1900,
has the following: "The words used
in an indictment shall be construed
in the usual acceptance in common
language, except such words and
phrases as are defined by law, which
are to be construed according to their
legal meaning."

Section 4208, Compiled Laws, 1900,
provides: "That the act or omission
charged as the offense is clearly and
distinctly set forth in ordinary and
concise language, without repetition,
and in such a manner as to enable a
person of common understanding to
know what is intended."

Section 4209 is as follows:
"No indictment shall be deemed
insufficient, nor shall the trial, judg-
ment, or the proceeding thereon, be
affected, by reason of any defect or
imperfection in matters of form,
which shall not tend to the prejudice
of the defendant."

The foregoing enactments show that
it was the intention of the legisla-
ture of Nevada that in construing in-
dictments the courts should not indulge
in a too-exact and over-nice view of
language; but that certainty to a com-
mon intent was all that should be
required.

True, in the paragraph of the in-
dictment under discussion, there is
something of a departure from the
best models of grammatical, rhetori-
cal or linguistic expression. But we
think the paragraph meets the
requirement of the statute that "the
acts constituting the offense should be
charged in ordinary and concise lan-
guage, and in such manner as to en-
able a person of common understand-
ing to know what is intended." To
hold the indictment not fatally bad is,
we think, to keep within the statu-
tory command, as expressed above
in section 4206, or at least not to de-
part too far from such command, to-
wit, to construe "in the usual ac-
ceptance in common language."

We think the defect of the indict-
ment complained of was such as in
the language of Section 4209, above quoted
was a "defect or imperfection in
matters of form which did not tend
to the prejudice of the defendant."

The language of the indictment
could doubtless be made more accu-
rate; but we think it is not fatally
defective. In brief of Counsel for de-
fendant the following correction is of-
fered:

"If the words 'or thereabouts' had
been inserted after the words 'on the
11th day of May, 1904', the indict-
ment could not be the subject of criti-
cism or assault."

Perhaps the following phraseology
might be considered an improvement
on the phraseology of the indictment:

The said Paul Lovelace did in the
night time of the 11th day of May,
1904, or in the night time of some
day thereabouts the said 11th day
of May, 1904, enter, etc.

Said Paul Lovelace did, in the night
time, on or about the 11th day of
May, 1904, enter, etc., and he
might perhaps be considered a little
better colloquation of words, although
this is something of a departure from
the form suggested in the statute con-
cerning the form of indictments.

That mere grammatical, punctua-
tional (if verbal "free coinage" may
be allowed), rhetorical or linguistic
error does not always vitiate is fully
sustained by decisions of courts and
text writers. The following notably
excellent authority is cited to sus-
tain this doctrine:

Cyclopedia of Law and Procedure
(Cyc.) vol. 6, page 199; and authori-
ties there mentioned.

While this indictment, in the respects
mentioned is in truth inartistically
drawn, yet under the statutes and the
authorities above stated, we cannot
say that it is fatally defective. The
sections of the statute above quoted
show that the legislative intent was
that the courts of the State should
give interpretations liberal to sustain
rather than rigid to overthrow in-
dicaments when, as in this case, substi-
tial rights of defendants are not there-
by prejudiced; and as we have from
the authority mentioned seen that
even under the common law to over-
throw this indictment would seem too
rigid an interpretation.

Under the second head the error
claimed is stated in the brief of Coun-
sel for defendant as follows:

"On the trial of appellant the de-
position of one Ross, taken at the pre-
liminary examination was read in
evidence, because he broke jail and
escaped before the trial and his pres-
ence could not be procured."

"He testified that he and appellant
entered the store of Alexander Burrell
on the day named in the indictment,
stole a lot of amalgam of the value
of about \$2000, and buried it a short
distance from the scene of the crime.
Appellant claims there was no testi-
mony corroborative of that of Ross,
and that a conviction could not be
had."

In this contention Counsel is, we
think, clearly mistaken. Besides
minor points of corroboration, not nec-
essary to be mentioned here, the tes-
timony of the witness W. J. Davidson
corroborates the testimony of the ac-
complice Ross. Davidson testifies that
the defendant requested him (David-
son) "to help him rob the store at
Edgemont", that is the store that was
robbed. Davidson further testifies
that the defendant "told him he would
have got the amalgam if something
had not happened"—the amalgam was
the article stolen in the robbery.

Davidson further testifies that the de-
fendant was trying to dispose of the
amalgam, the thing stolen; and asked
Davidson this question: "What
am I going to do about that damned
stuff."

If this testimony was true, and its
truth was a question entirely for the
jury, there was corroboration of the
testimony of the accomplice Ross.

Defendant fails in sustaining either
of his two points urged in argument
for the reversal of the judgment.

The judgment is therefore affirmed.
Fitzgerald, C. J.

We Concur:
Talbot, J.
Norecross, J.

Filed January 4, 1906.

TOURIST EXCURSION PARTIES TO THE EAST.

Over the Scenic Line of the World.

If you are going east and want to
save money, yet travel with pleasure
and comfort, it will pay you to in-
vest our personally conducted tourist
excursions. The parties are in charge
of a Manager who accompanies the
cars through the St. Louis, Chicago
and the Atlantic Coast and gives his
personal attention to the welfare of
each passenger in his charge. The
schedules are arranged so you pass
through the world-famed scenery on
the Denver and Rio Grande Railroad
by daylight. Open-top Observation
cars (something entirely new) are
free to all passengers. Let us know
where you are going and we will
be glad to give you full information
about your trip, the lowest rates of
fare and send you free of charge some
handsome illustrated books of travel.

W. J. SHOTWELL,
General Agent.
625 Market Street, San Francisco, Cal.

Cattle and Horses.
The City Marshal gives warning
that all loose stock found on the
streets from this time on will be im-
pounded. A strict attention to this
warning ordinance will be enforced and
impounding fines will be impos-
ed in every case.

Wm. Kinney,
Marshal.

LADIES: I make from \$18 to \$30
per week and want all to have the
same opportunity. The work is very
pleasant and will pay you very han-
somely for even your spare time. I
speak from experience as I have fre-
quently made \$5.00 in a single day.
This is no deception. I want no
money and will gladly send full par-
ticulars to all. Address,

MRS. W. W. MITCHELL,
Box 10, Portland Maine.

Notice to Hunters.

Notice is hereby given that any
person found hunting without a permit
on the premises owned by Theodore
Winters, will be prosecuted. A lim-
ited number of permits will be sold
at \$5 for the season or 50 cents for
one day.

A. C. WINTERS.

Take a look at the new ties that
are being shown at Platt's.

Ward is closing out his \$20.00
stock at a sacrifice. This is an op-
portunity for Christmas shoppers.

Liberal Offer.

I beg to advise my patrons that the
price of disc records (either Victor
or Columbia), to take effect imme-
diately, will be as follows until fur-
ther notice:

Ten inch disks formerly 70 cents
will be sold for 60 cents.

Seven inch records formerly 50c,
now 35c. Take advantage of this of-
fer.

C. W. FRIEND.

ORDINANCE NO. 112.

Or. Ordinance for the Licensing of
Games and Gambling Devices in
Carson City.

The Board of Trustees of Carson
City do ordain:

Section 1. Each and every person,
firm, company, corporation, or asso-
ciation within the limits of Carson
City, who shall carry on as agent,
manager, owner or proprietor, any
game of faro, roulette, rondo, keno,
or any other game not prohibited by
the statutes of the State of Nevada,
or who shall carry on or operate any
nickle-in-the-slot-machine, or who
shall carry on or conduct any bank-
ing game played with cards, dice or
other device, whether the same be
played with money, checks, credit or
any other valuable thing or repre-
sentative of value, shall pay for and
obtain a city license to carry on such
game, and shall pay for each license
twenty-five dollars (\$25.00) per month
provided that when more than one
of said games are carried on in the
same room or apartment, whether
by the same or different owners, each
game so carried on shall be separate-
ly licensed; and provided further,
that the license imposed by this Or-
dinance is for the revenue only, and
not for the purpose of prohibition,
suppression or regulation.

Section 2. The provisions of this
Ordinance shall apply to all time
on and after October 1, 1905.

Section 3. Ordinance Number 59
and all other ordinances or parts of
Ordinances in so far as they conflict
with the provisions of this Ordi-
nance are hereby repealed.

President of the Board of City Trust-
ees of Carson City, Nevada.

Attest:
H. B. Van Etten, Clerk.

OFFICIAL COUNT OF STATE FUNDS.

STATE OF NEVADA.

County of Ormsby, s. s.

James G. Sweeney being duly sworn
say they are members of the
Board of Examiners of the State of
Nev. that on the 29th day of Nov '05
they, (after having ascertained from
the books of the State Controller the
amount of money that should be in
the Treasury) made an official exami-
nation and count of the money and
vouchers for money in the State Treas-
ury of Nevada and found the same
correct as follows:

Coin.....\$151,107 29
Paid coin vouchers not re-
turned to Controller 16,835 71

Total.....167,945 00

State School Fund Securities.

Irredeemable Nevada State

School bond.....330,000 00

Mass. State 3 per cent

bonds.....537,000 00

Nevada State Bonds.....253,700 00

Mass. State 3 1/2 per cent

bonds.....313,000 00

United States Bonds.....215,000 00

Total.....\$1,866,643.00

W. G. Douglass

James G. Sweeney

Subscribed and sworn before me this

29th day of November, A. D. 1905.

J. Doane,

Notary Public, Ormsby County, Nev.

ANNUAL STATEMENT

Of The State Life Insurance Company

Indianapolis, Ind.

Capital (paid up).....non-

Assets (admitted).....3,160,093 81

Liabilities, exclusive of capi-
tal and net surplus.....2,615,497 73

Income

Premiums.....4,046,907 77

Other sources.....197,125 01

Total income, 1904.....2,224,032 78

Expenditures

Losses.....300,902 63

Dividends.....65,240 11

Other expenditures.....1,050,102 76

Total expenditures, 1904.....1,416,245 56

Business, 1904

Risks written.....23,276,143 00

Premiums thereon.....805,648 06

Losses incurred.....316,885 00

Nevada Business.

Risks written.....10,000 00

Premiums received.....2,852 43

Losses paid.....5,000 00

W. S. Wynn Secretary.

New lines of footwear ar-
rived daily at Ed. Burlington's Shoe Store.
He has been considering the
best and best lines of shoes ar-
riving daily. You will find the
best and best lines of shoes ar-
rived in his store and prices are al-
ways the lowest. You can save
money by purchasing footwear at
his store.

Quarterly Report.

OFFICE COUNTY AUDITOR

Ormsby County, Nevada.

To the Honorable, the Board of Com-
missioners, Gentlemen:

In compliance with the law, I
herewith submit my quarterly re-
port showing receipts and disburse-
ments of Ormsby County, during
the quarter ending Dec. 30, 1905.

Receipts.

Balance in County Treasury at
end of last quarter.....\$40023 36 1/2

County licenses.....1701 05

Gaming licenses.....1057 50

Liquor licenses.....310 20

Fee of Co. officers.....531 40

Rent of county bldg.....250 00

Post taxes.....620 40